

1 Brian E. Holthus, Esq.  
2 Nevada Bar No. 2720  
3 JOLLEY URGA WIRTH  
4 WOODBURY & STANDISH  
5 3800 Howard Hughes Parkway, 16th Floor  
Las Vegas, Nevada 89169  
Telephone: (702) 699-7500  
Facsimile: (702) 699-7555  
Email: [beh@juww.com](mailto:beh@juww.com)

6 Lewis K. Loss (*pro hac vice*)  
7 Matthew J. Dendinger (*pro hac vice*)  
8 LOSS, JUDGE & WARD, LLP  
Two Lafayette Centre  
9 1133 21st Street, NW, Suite 450  
Washington, DC 20036  
Telephone: (202) 778-4060  
Facsimile: (202) 778-4099  
10 Email: [lloss@ljwllp.com](mailto:lloss@ljwllp.com)  
[mdendinger@ljwllp.com](mailto:mdendinger@ljwllp.com)

11 Attorneys for Progressive Casualty  
12 Insurance Company

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14 **UNITED STATES DISTRICT COURT**  
**DISTRICT OF NEVADA**

15 PROGRESSIVE CASUALTY  
16 INSURANCE COMPANY

Case No. 2: 12-cv-00665-KJD-PAL

17 Plaintiff,

18 v.  
19 FEDERAL DEPOSIT INSURANCE  
20 CORPORATION, AS RECEIVER OF  
SILVER STATE BANK; COREY L.  
JOHNSON; DOUGLAS E. FRENCH;  
21 GARY A. GARDNER; and TIMOTHY S.  
KIRBY

22 Defendants.

23  
24 **PLAINTIFF PROGRESSIVE CASUALTY INSURANCE COMPANY'S**  
**UNOPPOSED MOTION FOR EXTENSION OF TIME TO FILE**  
**MEMORANDUM CONCERNING DOCUMENTS FILED UNDER SEAL**

25  
26 Now comes Plaintiff Progressive Casualty Insurance Company ("Progressive"), by  
27 and through its undersigned counsel, and respectfully requests that the Court grant

1 Progressive an extension of time until Thursday, November 14, 2013 to file a memorandum  
2 regarding documents filed under seal by Defendant Federal Deposit Insurance Corporation,  
3 as Receiver of Silver State Bank (“FDIC-R”). This motion is unopposed by the FDIC-R and  
4 the individual defendants in this matter.<sup>1</sup> In support of this motion Progressive states as  
5 follows:

6 On October 15, 2013, the FDIC-R filed a Motion for Leave to File Under Seal the  
7 FDIC-R’s Supplemental Brief Regarding Pending Discovery Motions [DE 109]. That same  
8 day, the FDIC-R filed its supplemental brief and exhibits under seal. On October 18, 2013,  
9 the Court entered an order [DE 110] providing until November 1, 2013 for Progressive to file  
10 a memorandum complying with the requirements of *Kamakana v. City and County of*  
11 *Honolulu*, 447 F.3d 1172 (9th Cir. 2006). Due to an oversight, for which Progressive’s  
12 counsel apologizes to the Court, this memorandum has not been filed.

13 On October 25, 2013, the FDIC, as Receiver of Sun West Bank (FDIC-RS), filed in  
14 the action captioned *Progressive Casualty Insurance Company v. Delaney, et al.*, No. 2:11-  
15 cv-LJR-PAL (D. Nev.), a Motion to Seal Motion to Compel Discovery from Progressive  
16 [Sun West, DE 69]. That same day, the FDIC-RS filed its motion to compel and exhibits  
17 under seal. On November 1, 2013, the Court entered an order [Sun West, DE 70] providing  
18 until November 14, 2013 for Progressive to file a memorandum complying with the  
19 requirements of *Kamakana*. The documents designated as confidential by Progressive that  
20 prompted the FDIC-RS’s motion to seal in the Sun West declaratory judgment action are the  
21 same documents that prompted the FDIC-R’s motion for leave to file under seal in this  
22 action.

23 Progressive respectfully requests that the Court allow it until November 14, 2013 to  
24 file a memorandum in this action concerning these documents, at which time Progressive  
25

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26 <sup>1</sup> Progressive has been advised by counsel for Defendant Timothy Kirby that Mr. Kirby  
27 recently passed away.

1 also will file a memorandum regarding these documents in the Sun West declaratory  
2 judgment action.

3 Respectfully submitted this 7th day of November, 2013.

4  
5 /s/ Brian E. Holthus  
6 Brian E. Holthus  
7 Nevada Bar No. 2720  
8 JOLLEY URGA WIRTH WOODBURY  
9 & STANDISH  
10 3800 Howard Hughes Parkway, 16th Floor  
Las Vegas, Nevada 89169  
(p) 702-699-7500  
(f) 702-699-7555  
[beh@juww.com](mailto:beh@juww.com)

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13 LOSS, JUDGE & WARD, LLP  
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15 1133 21st Street, NW, Suite 450  
16 Washington, DC 20036  
(p) 202-778-4060  
(f) 202-778-4099  
[lloss@ljwllp.com](mailto:lloss@ljwllp.com)  
[mdendinger@ljwllp.com](mailto:mdendinger@ljwllp.com)

17  
18 *Counsel for Progressive Casualty  
Insurance Company*

19  
20 **CERTIFICATE OF SERVICE**

21 The undersigned hereby certifies that on this 7th day of November, 2013, I caused a  
22 copy of the foregoing **Plaintiff Progressive Casualty Insurance Company's Unopposed**  
23 **Motion for Extension of Time to File Memorandum Concerning Documents Filed**  
24 **Under Seal** to be electronically served upon all attorneys of record in this action.

25  
26 /s/ Agnes R. Wong  
27 An Employee of  
Jolley Urga Wirth Woodbury & Standish

## **ORDER**

**IT IS SO ORDERED** that Progressive shall have until November 14, 2013 to file a memorandum concerning the documents filed under seal by the FDIC-R on October 15, 2013.

Dated this \_\_\_\_ day of November, 2013.

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## United States Magistrate Judge